

## Message Text

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ACTION NEA-10

INFO OCT-01 EUR-08 ISO-00 CIAE-00 PM-03 H-01 INR-05 L-01

NSAE-00 NSC-05 PA-01 RSC-01 PRS-01 SP-02 SS-15

USIA-06 SAM-01 DRC-01 MC-01 ACDA-05 /068 W

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P 151400Z OCT 74

FM AMEMBASSY MANAMA

TO SECSTATE WASHDC PRIORITY 1576

INFO SECDEF WASHDC PRIORITY

JCS/WASHDC PRIORITY

CNO WASHDC PRIORITY

CINCUSNAVEUR LONDON PRIORITY

COMIDEASTFOR PRIRRIY

C O N F I D E N T I A L SECTION 1 OF 2 MANAMA 0843

E.O. 11652: GDS

TAGS : MARR, BA, US

SUBJECT : MIDEASTFOR STATIONING AGREEMENT: JURISDICTION

REF : MANAMA 818

FOLLOWING IS FULL TEXT OF PROPOSED PROCEDURAL NOTE ON  
JURISDICTION TO WHICH GOB HAS AGREED IN DRAFT:

"I HAVE THE HONOR TO REFER TO ARTICLES 8 AND 11 OF THE  
AGREEMENT EFFECTED DECEMBER 23, 1971 BETWEEN THE GOVERNMENT  
OF THE STATE OF BAHRAIN AND THE GOVERNMENT OF THE UNITED  
STATES CONCERNING THE UNITED STATES MIDDLE EAST FORCE IN  
BAHRAIN.

"ARTICLE 11 OF THE AGREEMENT IS BASED ON IMPLICIT  
RECOGNITION THAT IN EXERCISING SOVEREIGNTY OVER ITS  
TERRITORY THE STATE OF BAHRAIN HAS FULL AND UNLIMITED  
POWER TO EXERCISE JURISDICTION OVER OFFENSES ARISING IN  
ITS TERRITORY SUBJECT TO THE PROVISIONS OF BAHRAINI AND  
INTERNATIONAL LAW, AND THAT UNITED STATES MILITARY  
COMMANDERS HAVE THE AUTHORITY AND RESPONSIBILITY OF  
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MAINTAINING GOOD ORDER AND DISCIPLINE WITHIN THE ARMED

FORCES OF THE UNITED STATES. WITH THIS UNDERSTANDING, THE GOVERNMENTS AGREED IN ARTICLE 11 THAT TO FACILITATE THE OPERATION OF THE UNITED STATES MIDDLE EAST FORCE THE GOVERNMENT OF BAHRAIN WOULD EXERCISE CIVIL JURISDICTION OVER MEMBERS OF THE FORCE, EXCEPT FOR THOSE MATTERS ARISING FROM THE PERFORMANCE OF DUTY, AND THAT THE U.S. AUTHORITIES WOULD EXERCISE JURISDICTION OVER CRIMINAL OFFENSES COMMITTED BY MEMBERS OF THE FORCE.

"IN THE THIRD SENTENCE OF ARTICLE 11 THE GOVERNMENTS AGREED THAT THEY MIGHT AGREE IN PARTICULAR CASES TO A DIFFERING DIVISION OF THE EXERCISE OF JURISDICTION.

" AFTER SEVERAL YEARS EXPERIENCE WITH THE IMPLEMENTATION OF ARTICLE 11 AND AFTER CONSULTATIONS BETWEEN THE TWO GOVERNMENTS, THE GOVERNMENT OF THE UNITED STATES PORPOSES THE FOLLOWING PROCEDURES FOR IMPLEMENTING ARTICLE 11.

"((QL THE GOVERNMENT OF BAHRAIN SHALL HAVE THE EXCLUSIVE RIGHT TO EXERCISE JURISDICTION OVER MEMBERS OF THE U.S. FORCE WITH RESPECT TO SECURITY OFFENSES AGAINST THE STATE OF BAHRAIN PUNISHABLE BY THE LAW OF BAHRAIN WHEN THE ACTS OR OMISSIONS GIVING RISE TO THE ALLEGED OFFENSE DO NOT ALSO CONSTITUTE AN OFFENSE UNDER THE LAW OF THE UNITED STATES. FOR THE PURPOSES OF THIS PARAGRAPH, OFFENSES AGAINST THE SECURITY OF BAHRAIN ARE TREASON, SABOTAGE, ESPIONAGE AND VIOLATION OF STATE SECRETS LAWS.

"(2) IN ANY OTHER CASE WHICH THE GOVERNMENT OF BAHRAIN CONSIDERS TO BE OF PARTICULAR IMPORTANCE AND HENCE WISHES TO EXERCISE JURISDICTION OVER AN OFFENSE COMMITTED IN THE TERRITORY OF BAHRAIN BY A MEMBER OF THE U.S. FORCE, THE GOVERNMENT OF BAHRAIN WILL FORWARD TO THE UNITED STATES GOVERNMENT A FORMAL WRITTEN CERTIFICATE OF THAT FACT. IN VIEW OF THE NEED UNDER BOTH BAHRAINI AND UNITED STATES LAW TO ACCORD THE ACCUSED A SPEEDY TRIAL, THE GOVERNMENTS UNDERSTAND THAT SUCH CERTIFICATE WILL BE FORWARDED WITHIN A REASONABLE TIME AFTER THE BAHRAIN CONFIDENTIAL

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GOVERNMENT AUTHORITIES HAVE LEARNED OF THE ALLEGED INVOLVEMENT OF A MEMBER OF THE UNITED STATES FORCE IN THE CASE AND IN ANY EVENT BEFORE CHARGES ARE LAID BY THE GOVERNMENT OF BAHRAIN. NORMALLY A "REASONABLE TIME" WILL BE UNDERSTOOD TO MEAN NO MORE THAN FOURTEEN DAYS (EXTENDABLE FOR AN ADDITIONAL FOURTEEN DAYS UPON REQUEST).

"(A) UPON THE ISSUANCE AND DELIVERY OF SUCH A

CERTIFICATE IN CASES OF SERIOUS CRIMES INCLUDING MURDER, MANSLAUGHTER, RAPE, BUGGERY, AGGRAVATED ASSAULT, ROBBERY, KIDNAPPING, ARSON, SEXUAL OFFENSES AGAINST CHILDREN, DRUG TRAFFICKING AND OFFENSES INVOLVING DEATH OR SERIOUS INJURY IN WHICH PERMANENT DISABILITY IS PROBABLE, EXCEPT FOR THOSE CASES IN WHICH ALL OF THE VICTIMS ARE MEMBERS OF THE UNITED STATES FORCE OR FOR THOSE CASES WHICH ARISE FROM AN ACT OR OMISSION DONE IN THE PERFORMANCE OF OFFICIAL DUTY, THE GOVERNMENT OF BAHRAIN WILL PROCEED WITH THE EXERCISE OF JURISDICTION IN THE CASE UNLESS DISCUSSIONS REQUESTED BY THE UNITED STATES WITHIN FOURTEEN DAYS OF ISSUANCE AND DELIVERY OF THE CERTIFICATE LEAD TO AN AGREEMENT TO PROCEED DIFFERENTLY.

"(B) IN ALL OTHER CASES THE GOVERNMENT OF THE UNITED STATES WILL RETAIN JURISDICTION UNLESS FURTHER DISCUSSIONS BETWEEN THE TWO GOVERNMENTS LEAD TO AN AGREEMENT TO PROCEED DIFFERENTLY.

"(C) THE EXERCISE OF JURISDICTION BY ONE GOVERNMENT WILL PRECLUDE THE EXERCISE OF JURISDICTION IN BAHRAIN BY THE OTHER GOVERNMENT FOR THE SAME OFFENSE.

"(3) IN THE EXERCISE OF JURISDICTION MENTIONED

ABOVE BY THE GOVERNMENT OF BAHRAIN,  
A MEMBER OF THE  
UNITED STATES FORCE WILL BE ENTITLED TO THE MOST  
FAVORABLE APPLICATION OF THE RIGHTS OF AN ACCUSED UNDER  
BAHRAINI LAW. THESE ARE UNDERSTOOD TO INCLUDE THE  
FOLLOWING:

A) TO BE TRIED AS PROMPTLY AS POSSIBLE;  
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B) TO BE INFORMED, IN ADVANCE OF TRIAL, OF THE  
SPECIFIC CHARGE OR CHARGES MADE AGAINST HIM;

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INFO OCT-01 ISO-00 EUR-08 CIAE-00 PM-03 H-01 INR-05 L-01

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P 151400Z OCT 74

FM AMEMBASSY MANAMA BAHRAIN

TO SECSTATE WASHINGTON DC PRIORITY 1577

INFO SECDEF WASHINGTON DC PRIORITY

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C O N F I D E N T I A L SECTION 2 OF 2 MANAMA 0843

C) TO BE CONFRONTED WITH AND TO CROSS-EXAMINE  
THE WITNESSES AGAINST HIM;

D) TO HAVE LEGAL REPRESENTATION OF HIS OWN  
CHOICE FOR HIS DEFENSE OR, AT HIS ELECTION, TO HAVE  
LEGAL REPRESENTATION APPOINTED BY THE COURT AT NO COST  
TO HIM UNDER THE SAME TERMS AND CONDITIONS APPLICABLE TO  
BAHRAINI CITIZENS;

E) TO BE PRESENT AT HIS TRIAL WHICH, CONSISTENT  
WITH PUBLIC ORDER OR MORALITY, SHALL BE PUBLIC;

F) TO HAVE THE BURDEN OF PROOF PLACE UPON THE  
PROSECUTION;

G) TO BE PROTECTED FROM THE USE OF CONFESSION  
OR OTHER EVIDENCE OBTAINED BY ILLEGAL OR IMPROPER MEANS;

H) NOT BE COMPELLED TO TESTIFY AGAINST OR  
OTHERWISE INCRIMINATE HIMSELF; AND

I) NOT TO BE SUBJECTED TO ANY CORPORAL  
PUNISHMENT.

"(4) WHILE THE PRELIMINARY INVESTIGATION BY THE  
BAHRAIN GOVERNMENT AUTHORITIES INTO ANY CASE INVOLVING  
A MEMBER OF THE UNITED STATES  
FORCE IS BEING UNDERTAKEN  
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THE UNITED STATES GOVERNMENT AUTHORITIES WILL, PRIOR TO  
ISSUANCE AND DELIVERY OF ANY CERTIFICATE REGARDING  
JURISDICTION, ASSIST THE BAHRAIN GOVERNMENT AUTHORITIES  
AND, IF NECESSARY, AND CONSISTENT WITH UNITED STATES LAW,  
UNDERTAKE TO MAINTAIN THE PRESENCE OF A MEMBER OF THE  
UNITED STATES FORCE PRIOR TO CHARGES BEING LAID AND  
THEREAFTER UNTIL FINAL DISPOSITION OF THE CASE.

"(5) DURING ANY PERIOD OF MARTIAL LAW DECLARED BY THE GOVERNMENT OF THE STATE OF BAHRAIN, THE TWO GOVERNMENTS WILL CONSULT ON THE APPLICABILITY OF THE PROCEDURES FOR CRIMINAL JURISDICTION.

"(6) IN CASES OTHER THAN CASES WHERE PARAGRAPH 2(A) HEREOF IS APPLIED, THE UNITED STATES GOVERNMENT WILL INFORM THE BAHRAIN GOVERNMENT OF DETAILS OF THE CASE AND THE DISPOSITION THEREOF.

"(7) UPON REQUEST OF THE BAHRAIN GOVERNMENT THE UNITED STATES GOVERNMENT WILL TRANSFER OUT OF BAHRAIN ANY MEMBER OF THE UNITED STATES FORCE WHO IS CONVICTED BY EITHER GOVERNMENT OF A SERIOUS OFFENSE.

"(8) IN ORDER TO EXPEDITE THE PROMPT AND SATISFACTORY SETTLEMENT OF CLAIMS (OTHER THAN CONTRACTUAL) FOR DAMAGES ARISING OUT OF ACTS OR OMISSIONS (WHETHER OR NOT ARISING FROM THE PERFORMANCE OF OFFICIAL DUTY) OF MEMBERS OF THE ARMED HZSRCS OR CIVILIAN EMPLOYEES OF THE UNITED STATES FORCE THE UNITED STATES WILL, IN IMPLEMENTATION OF ARTICLE 8, ESTABLISH AND MAINTAIN A CLAIMS COMMISSION IN BAHRAIN. IT IS UNDERSTOOD THAT THE ESTABLISHMENT OF THE CLAIMS COMMISSION IN NO WAY DEROGATES FROM THE RIGHT OF THE GOVERNMENT OF BAHRAIN UNDER ARTICLE 11 TO EXERCISE CIVIL JURISDICTION OVER MEMBERS OF THE UNITED STATES FORCE EXCEPT FOR THOSE MATTERS ARISING FROM THE PERFORMANCE OF OFFICIAL  
56.

"IF THE FORERWIMM ARRANGEMENTS CONCERNING THE IMPLEMENTATION OF ARTICLES 8; AND 11 OF THE AGREEMENT ARE CONFIDENTIAL

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ACCEPTABLE TO THE GOVERNMENT OF BAHRAIN, I HAVE THE HONOR TO PROPOSE THAT THIS NOTE AND YOUR NOTE IN REPLY CONFIRMING ACCEPTANCE WILL PUT THESE ARRANGEMENTS INTO EFFECT."  
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## Message Attributes

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